

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

PATRICK K. MCDONNELL,
and CABBAGETECH, CORP. d/b/a COIN
DROP MARKETS,

Defendants.

Case No. 18-CV-0361 (JBW) (RLM)

ECF Case

**DECLARATION OF DANIEL A.
DRISCOLL IN SUPPORT OF
PLAINTIFF COMMODITY FUTURES
TRADING COMMISSION'S
REQUEST FOR APPOINTMENT OF
NATIONAL FUTURES
ASSOCIATION AS MONITOR**

I, Daniel A. Driscoll, declare pursuant to 28 U.S.C. § 1746 as follows:

1. This declaration is submitted in support of the request of Plaintiff Commodity Futures Trading Commission ("CFTC") for the appointment of National Futures Association ("NFA") as monitor in connection with the proposed administration and distribution of restitution in the above-referenced matter.

2. I am Executive Vice President and Chief Operating Officer of NFA. I have been employed with NFA in this capacity since 2003 and have held other positions at NFA since 1982.

NFA's SERVICE AS A MONITOR

3. NFA is a registered futures association with the Commodity Futures Trading Commission ("CFTC") pursuant to Section 17 of the Commodity Exchange Act, 7 U.S.C. § 21 (2012). NFA is the industry-wide, independent, self-regulatory organization for the US derivatives industry. NFA regulates every firm or individual who conducts futures trading

business with public customers. NFA develops rules, programs and services that safeguard market integrity, protect investors and customers, and help our Members meet their regulatory responsibilities. In addition, the CFTC by Order has delegated to NFA responsibility for administering the registration of CFTC registrants.

4. NFA operates at no cost to the American taxpayer. NFA's operations are financed exclusively from membership dues, and from assessment fees paid by the users of the futures markets.

5. In addition to the functions discussed above, since at least the 1990s, NFA has served as a post-judgment monitor in CFTC enforcement actions. Specifically, as a monitor appointed by federal district court order in CFTC enforcement litigation, or by CFTC order in administrative enforcement litigation, NFA processes and administers any post-judgment restitution and disgorgement payments that respondents, defendants or relief defendants make pursuant to the relevant order.

6. NFA has developed substantial experience and expertise in administering post-judgment restitution and disgorgement programs in connection with the CFTC's anti-fraud enforcement litigation. In particular, NFA has created and refined a process through which restitution and disgorgement payments are received, accounted for, deposited into a bank account dedicated to that particular matter, and then disbursed to the defrauded customers or as otherwise appropriate pursuant to the relevant federal district court order or CFTC administrative order.

7. Since at least 2004, NFA has served as Monitor in approximately 345 cases after being appointed pursuant to a federal district court order or a CFTC administrative order. A list of matters in which NFA has served as Monitor since 2004 is attached hereto as Exhibit A. In

every case listed, NFA served as Monitor at no cost to the defrauded customers, the CFTC, or the other parties to the action.

NFA IS WILLING TO SERVE AS MONITOR FOR THE PROPOSED FINAL JUDGMENT IN THIS MATTER

8. Consistent with the foregoing, I hereby reaffirm NFA's willingness to serve as Monitor for the administration and distribution of restitution in this matter should the Court so order.

9. I have reviewed and agreed to the terms of the proposed final judgment, which I understand has been transmitted to the Court along with this Declaration.

10. NFA stands ready to serve as post-judgment Monitor under the terms of this proposed order.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 24th day of July, 2018, at Chicago, Illinois.



Daniel A. Driscoll
Executive Vice President and Chief Operating Officer
National Futures Association